



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (“ICR”) abstracted below has been forwarded to the Office of Management and Budget (“OMB”) for review and comment. The ICR describes the nature of the information collection and its expected costs and burdens.

DATES: Comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden, may be submitted directly to the Office of Information and Regulatory Affairs (“OIRA”) in OMB within 30 days of publication of this notice by either of the methods specified below. Please identify the comments by “OMB Control Numbers 3038-0023 and 3038-0072.”

- By email addressed to: *OIRAsubmissions@omb.eop.gov*; or
- By mail addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention Desk Officer for the Commodity Futures Trading Commission, 725 17th Street, NW., Washington, DC 20503.

A copy of all comments submitted to OIRA should be sent to the Commodity Futures Trading Commission (“Commission”) by any of the following methods. The copies should refer to “OMB Control Numbers 3038-0023 and 3038-0072.”

- By mail addressed to: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581;
- By Hand Delivery/Courier to the same address; or
- Through the Commission’s website at <http://comments.cftc.gov>. Please follow the instructions for submitting comments through the website.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <http://www.cftc.gov>. You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission’s regulations.¹ The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required

¹ 17 CFR 145.9.

under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

A copy of the supporting statements for the collections of information discussed herein may be obtained by visiting <http://RegInfo.gov>.

FOR FURTHER INFORMATION CONTACT: Christopher W. Cummings, Special Counsel, (202) 418-5445, ccummings@cftc.gov, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581, and refer to OMB Control Numbers 3038-0023 and 3038-0072.

SUPPLEMENTARY INFORMATION:

Titles: Registration Under the Commodity Exchange Act (OMB control number 3038-0023); Registration of Swap Dealers and Major Swap Participants (OMB control number 3038-0072). This is a request for extension and revision of these currently approved information collections.

Abstract: In *Adoption of Revised Registration Form 8-R*, 82 FR 19665 (Apr. 28, 2017), the Commission published a revised version of Commission Form 8-R. The 8-R is the application form that individuals must use to register with the Commission as an associated person, floor broker, floor trader, floor trader order enterer, or to be listed as a principal of a registrant. Separately, in *Agency Information Collection Activities:*

Proposed Collection Revision, Comment Request: Adoption of Revised Registration Form 8-R and Cancellation of Form 3-R, 82 FR 19663 (Apr. 28, 2017) (“60-Day Notice”), the Commission addressed the PRA implications of the revisions to Form 8-R. The 60-Day Notice also addressed the PRA implications associated with formally cancelling Commission Form 3-R, a separate registration form that became obsolete after its

function became available online and the Commission stopped requiring its use. As indicated above, Form 8-R is covered by two OMB control numbers. OMB control number 3038-0023 applies to Form 8-R in connection with registering as a floor broker or floor trader, or registering as an associated person of, or being listed as a principal of, a futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, floor trader firm or leverage transaction merchant.² OMB control number 3038-0072 applies to Form 8-R in connection with applying to be listed as a principal of a swap dealer or major swap participant.³ In connection with the revision of Form 8-R, the Commission is amending collections 3038-0023 and 3038-0072 to reflect a modest increase in the information collection burdens associated with the new version of Form 8-R. The Commission did not amend Form 7-R or its current burden, which is included as part of the overall burden estimates of collections 3038-0023 and 3038-0072.

I. *Commission Form 8-R*

The Commission made three substantive changes to the Form 8-R that increased the existing information collection burden under the PRA: two new questions were added to the “Fingerprint Card Information” section; a new question was added to the section titled “Disciplinary Information – Regulatory Disclosures;” and, lastly, one of the questions in the section titled “Disciplinary Information – Financial Disclosures” was

² OMB control number 3038-0023 also covers Commission Forms 7-R, 7-W and 8-T in connection with various registration activities involving floor brokers, floor traders, futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms or leverage transaction merchants, and their principals and associated persons, as applicable. Forms 7-R, 7-W and 8-T were not amended in connection with the revision of Form 8-R.

³ OMB control number 3038-0072 also covers Commission Forms 7-R, 7-W and 8-T in connection with various registration activities involving swap dealers and major swap participants, and principals thereof. Forms 7-R, 7-W and 8-T were not amended in connection with the revision of Form 8-R.

expanded. Additionally, the revised Form 8-R also contains several other substantive modifications, as well as numerous grammatical, organizational and formatting changes.⁴ These other changes, whether considered individually or in aggregate, do not alter the information collection burdens for Form 8-R. All of the changes to Commission Form 8-R that are summarized above are discussed in detail in the 60-Day Notice.

The collections of information related to Form 8-R were previously approved by OMB in accordance with the PRA under OMB control numbers 3038-0023 and 3038-0072. In the 60-Day Notice, the Commission addressed the PRA implications of the changes to Commission Form 8-R. Specifically, the Commission estimated that the three substantive changes to Form 8-R discussed above together add 0.1 hours to the existing information collection burden associated with Form 8-R, currently 0.8 hours, resulting in a new collection burden of 0.9 hours for Form 8-R, subject to the additional change to the collection burden discussed below. The information requested in Form 8-R is necessary to assess the applicant's fitness to engage in business as a derivatives professional, subject to regulation and oversight by the Commission. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. As noted below, the Commission requested comments on the changes to Form 8-R.

II. *Commission Form 3-R*

⁴ The Commission has recently made a series of additional non-substantive changes to Form 8-R. The FBI Privacy Act Statement and the Noncriminal Justice Applicant's Privacy Rights Disclosure are added to Form 8-R. Both sets of disclosures are related to the preexisting requirement that applicants have their fingerprints taken in connection with registration. Also, there are several grammatical changes and changes to specific verbiage, none of which are substantive.

Firms and individuals historically were required to use Form 3-R to update or change the registration information that they previously supplied on either a Form 7-R or 8-R. The Commission no longer requires firms and individuals to use Form 3-R. Updating registration information is now accomplished online, directly via electronic versions of Commission Forms 7-R or 8-R. In light of the obsolescence of Form 3-R, the Commission proposed in the 60-Day Notice to formally cancel the 3-R for PRA purposes, and to reassign to Forms 7-R and 8-R the information collection burdens that had been associated with Form 3-R.

The collection of information related to Form 3-R was previously approved by OMB in accordance with the PRA under OMB control number 3038-0023. The information collection burden associated with Form 3-R is 0.1 hours. In reassigning that burden to Forms 7-R and 8-R, the Commission believes that an additional 0.1 hours should be assigned to the Form 7-R and 8-R.⁵ The reassignment of the information collection burden for the Form 3-R simply reallocates a portion of the existing information collection burden within OMB control number 3038-0023, but it does not increase or decrease the total information collection burden under that control number. Accordingly, the information collection burden for Form 8-R under OMB control number 3038-0023 is 1.0 hour, which consists of the previous estimate of 0.8 hours, plus an additional 0.1 hours associated with the amendments to the 8-R, and plus an additional 0.1 hours associated with the functionality that previously could be attributed to Form 3-R.

⁵ The Commission anticipates revising its Form 7-R in the immediate future. The PRA implications of the amendments to Form 7-R for OMB control numbers 3038-0023 and 3038-0072, including accounting for burden hours associated with former Form 3-R, will be addressed at that time.

OMB control number 3038-0072 previously did not account for the burden hours associated with Form 3-R. The information collection burden for Form 8-R under OMB control number 3038-0072 should be modified to address the fact that the functionality of former Form 3-R now exists in the electronic version of Form 8-R. The Commission believes that the burden hours for Form 8-R should be increased by 0.1 hours under OMB control number 3038-0072 as well. Accordingly, the information collection burden for Form 8-R under OMB control number 3038-0072 is 1.0 hour, which consists of the previous estimate of 0.8 hours, plus an additional 0.1 hours associated with the amendments to the 8-R, and plus an additional 0.1 hours associated with the functionality that previously could be attributed to Form 3-R.

III. *Comments*

In the 60-Day Notice, the Commission requested comments on, among other things, its estimates regarding the modified information collection burdens associated with the amendments to Form 8-R and the cancellation of Form 3-R. The Commission did not receive any comments that addressed any of its estimates or any other aspect of the information collection.

Burden Statement: As explained above, the Commission believes that the revisions to Form 8-R increase the information collection burdens for that form under OMB control numbers 3038-0023 and 3038-0072. Additionally, the Commission believes that reassigning to Form 8-R the information collection burden formerly associated with Commission Form 3-R reallocates the existing information collection burdens within OMB control number 3038-0023, and therefore does not alter the total information collection burden under that control number. Lastly, the Commission

believes that updating the information collection burden under OMB control number 3038-0072 to account for the fact that the functionality of former Form 3-R is included in Form 8-R, will cause an additional modest increase in the information collection burden under that control number.

The Commission estimates the burden of this collection of information under OMB control number 3038-0023 to be:

Respondents/Affected Entities: users of Form 8-R, specifically (i) associated persons of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, and leverage transaction merchants; (ii) principals of futures commission merchants, retail foreign exchange dealers, introducing brokers, commodity trading advisors, commodity pool operators, floor trader firms, or leverage transaction merchants; (iii) floor brokers; (iv) floor traders; and (v) floor trader order enterers.

Estimated number of respondents: 78,055.⁶

Estimated total annual burden on respondents: 7,735 hours.⁷

⁶ The revisions to Form 8-R do not change the estimated number of respondents. However, regarding the estimated number of respondents for OMB Control No. 3038-0023, the estimate in the 60-Day Notice incorrectly stated that there were 78,109 respondents, which was the total number of responses. The correct estimate at that time was 77,857. An additional 198 respondents were added under ICR Ref. No. 201604-3038-003, related to changes made by the Alternative to Fingerprinting Requirement For Foreign Natural Persons final rule. As a result, the total estimated number of respondents currently is 78,055.

⁷ Regarding the estimated total annual burden hours on respondents, the estimate in 60-Day Notice was 7,210, which consisted of the previous burden of 7,030 (from ICR Ref. No. 201412-3038-002), which was temporarily rounded down to 7,000 for the purposes of calculating the burden associated with Form 8-R, plus an additional 210 hours attributable to the revisions to Form 8-R. The 30-day notice eliminates the temporary rounding utilized in the 60-day notice and adds the 30 burden hours back into the total. The 30-day notice also includes an additional 495 hours that were added to the collection under ICR Ref. No. 201604-3038-003, related to changes made by the Alternative to Fingerprinting Requirement For Foreign Natural Persons final rule. As a result, the estimated total annual burden on respondents currently is 7,735. This estimate includes the collection burdens associated with Forms 7-R, 7-W, 8-R and 8-T, based on the historical practice of the Commission of addressing the burden estimates in aggregate, rather than separately on a form-by-form basis, for all of the registration forms: Forms 7-R, 7-W, 8-R, and 8-W.

Frequency of collection: Periodically.

There are no capital costs or operating and maintenance costs associated with this collection.

The Commission estimates the burden of this collection of information under OMB control number 3038-0072 to be:

Respondents/Affected Entities: users of Form 8-R, specifically principals of swap dealers and of major swap participants.

Estimated number of respondents: 772.⁸

Estimated total annual burden on respondents: 672 hours.⁹

Frequency of collection: Periodically.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: December 6, 2018.

Robert Sidman,
Deputy Secretary of the Commission.

⁸ Regarding the estimated number of respondents for OMB Control No. 3038-0072, the estimate in 60-Day Notice was 770. An additional 2 respondents were added to the collection under ICR Ref. No. 201603-3038-006, related to changes made by the Alternative to Fingerprinting Requirement For Foreign Natural Persons final rule. As a result, the total estimated number of respondents currently is 772. The revisions to Form 8-R do not change the estimated number of respondents.

⁹ Regarding the estimated total annual burden on respondents, the estimate in 60-Day Notice was 648, which consisted of the previous burden of 629 (from ICR Ref. No. 201512-3038-015), plus an additional 19 hours attributable to the revisions to Form 8-R. An additional 5 hours were added under ICR Ref. No. 201603-3038-006, related to changes made by the Alternative to Fingerprinting Requirement For Foreign Natural Persons final rule. Also, an additional 19 hours are being added to account for the functionality in the Form 8-R that previously could have been attributed to the now-obsolete Form 3-R. As a result, the estimated total annual burden on respondents currently is 672. This estimate includes the collection burdens associated with Forms 7-R, 7-W, 8-R and 8-T, based on the historical practice of the Commission of addressing the burden estimates in aggregate, rather than separately on a form-by-form basis, for all of the registration forms: Forms 7-R, 7-W, 8-R, and 8-W.

